

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:19-CV-00508-FDW-DSC**

SAUER BRANDS INC. ,

Plaintiff,

v.

**DUKE SANDWICH PRODUCTIONS
INC., DFP SANDWICH SHOPS LLC,
AND DUKE BRANDS,**

Defendants.

ORDER

THIS MATTER is before the Court on “Plaintiff’s Combined Motion to Compel Addressing Document Production Deficiencies and Motion for Sanctions Based on Defendants’ Violation of the Court’s Prior Discovery Order,” Doc. 58, filed August 20, 2020 and the parties’ associated briefs and exhibits, Docs. 59, 61, 63, 64, 66, 83 and 85 and “Defendants’ Omnibus Motion to Compel,” Doc. 62, filed on August 20, 2020 and the parties’ associated briefs and exhibits, Docs. 72 and 73, 75.

These Motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B) and are now ripe for the Court’s consideration.

Plaintiff argues that Defendants have failed to adequately search for and produce documents from agreed upon custodians, failed to produce responsive documents, and violated the Court’s July 2, 2020 Order compelling Defendants to serve complete supplemental interrogatory responses by July 17. Plaintiff also seeks sanctions.

The Court has carefully examined the record, the parties' arguments and the applicable authorities. For the reasons stated in Defendants' Response in Opposition and supporting documents, Plaintiff's Combined Motion to Compel and Motion for Sanctions is DENIED.

Defendants bring their Motion to Compel seeking to obtain documents and information that they argue Plaintiff and third-party Falfurrias Capital Partners have withheld or improperly redacted.

The Court concludes that a complete and unredacted version of the Asset Purchase Agreement between Falfurrias Capital and Plaintiff should be produced to Defendants. In all other respects, for the reasons stated in Plaintiff's Response in Opposition and supporting documents, Defendants' Motion to Compel is DENIED. Therefore, Defendants' Omnibus Motion to Compel is GRANTED IN PART AND DENIED IN PART.

This Court reminds all counsel of an observation made by Chief Justice John Roberts in his 2015 Report on the Federal Judiciary: "I cannot believe that many members of the bar went to law school because of a burning desire to spend their professional life wearing down opponents with creatively burdensome discovery requests or evading legitimate requests through dilatory tactics."

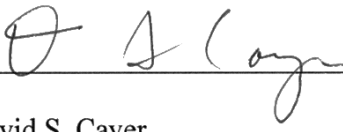
IT IS HEREBY ORDERED that:

1. "Plaintiff's Combined Motion to Compel Addressing Document Production Deficiencies and Motion for Sanctions Based on Defendants' Violation of the Court's Prior Discovery Order," Doc. 58, is **DENIED**.

2. “Defendants’ Omnibus Motion to Compel,” Doc. 62, is **GRANTED IN PART and DENIED IN PART**. Within five days of the date of this Order, Plaintiff shall provide a complete and unredacted copy of the Asset Purchase Agreement.
3. The parties shall bear their own costs at this time.
4. The Clerk is directed to send copies of this Order to counsel for the parties and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: September 28, 2020



David S. Cayer
United States Magistrate Judge

